

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

IN RE:) Case No.: 09-11394
) Chapter 11
SEVEN FALLS GOLF AND)
RIVER CLUB, LLC)
)
)
TAX ID #: 26-0868131)
)
)
Debtor(s))

MOTION TO DISMISS OR CONVERT TO CHAPTER 7

The Office of the Bankruptcy Administrator for the Western District of North Carolina moves the Court for an order dismissing this proceeding or converting it to Chapter 7 and says:

1. This is a Chapter 11 proceeding in which a voluntary petition was filed on or about December 23, 2009.
2. On December 30, 2009, an Operating Order was entered in this case. That Order provided, in part, that the debtor file monthly status reports and pay quarterly fees.
3. The debtor owes a monthly status report for December, 2009 and owes quarterly fees for the fourth quarter of 2009.
4. The debtor's Statement of Financial Affairs lists no income for the two years immediately preceding the year the case was filed and lists no income for the year in which the case was filed. At the 11 U.S.C. § 341 Meeting of Creditors, the debtor's representative, Keith Vinson ("Vinson"), testified that the debtor has never had any income and that it has only had loans. If the debtor has never had any income, it is unlikely it can propose a feasible plan.
5. The debtor is represented by Gene B. Johnson ("Johnson"). Although Johnson has not filed an application to be employed, he is not a "disinterested person" as defined in 11 U.S.C. § 101(14).
 - a. Vinson signed the debtor's petition as Mgr. Member and on the List of Equity Security Holders, Seven Falls Ventures, LLC is listed as having a 1007 [sic] interest in the debtor.

- b. The debtor listed Seven Falls, LLC (case 09-11182) and Zeus Investments, LLC (case 09-11183), both of whom filed Chapter 11 on October 26, 2009, as affiliates.
 - i. Vinson signed Seven Falls, LLC's petition as Managing Member and on the List of Equity Security Holders, The Keith Vinson Living Trust is listed as having a ninety-eight percent (98%) interest in the debtor.
 - ii. Seven Falls, LLC scheduled accounts receivable due from Mountain Jet Services in the amount of \$1,302,159.35 and from Waightstill Mountain, LLC in the amount of \$1,800,000.00.
 - iii. Vinson signed Zeus Investments, LLC petition as Managing Member and on the List of Equity Security Holders, Vinson is listed as having a one hundred percent (100%) interest in the debtor.
 - iv. In both the Seven Falls, LLC and the Zeus Investments, LLC cases, the debtors are represented by Christine L. Myatt, and the debtors filed an Application to employ Johnson as special counsel. The undersigned objected to the Applications due to Johnson not being a disinterested person, and the Applications were withdrawn.
- c. On September 10, 2009, Mountain Jet Services, LLC filed Chapter 11 (case 09-11002) with this court and was represented by Johnson. Vinson signed Mountain Jet Services, LLC's petition as managing member. Mountain Jet's case was dismissed on October 1, 2009.
- d. On October 29, 2009 Waightstill Mountain, LLC filed Chapter 11. Vinson signed Waightstill Mountain LLC's petition and on the List of Equity Security Holders, Vinson is listed as having a fifty percent (50%) interest in the debtor.
- e. The Bankruptcy Administrator objects to Johnson's representation of the debtor, as Johnson and his firm are not disinterested persons as defined by 11 U.S.C. § 101(14).
- f. Additionally at the 11 U.S.C. § 341 Meeting of Creditors, the Bankruptcy Administrator, Linda W. Simpson, advised Johnson that he was ineligible to serve as the debtor's attorney as he is not disinterested.
- g. The Disclosure of Compensation for Attorney shows Johnson received \$15,000.00 from a source other than the debtor. Johnson should be required to disgorge any compensation received in the debtor's case, as he is not a disinterested person.

Wherefore, the undersigned moves to dismiss or convert the debtor's case based on the debtor's failure to comply with the terms of this Court's Operating Order in that the debtor has failed to file a monthly status report and failed to pay quarterly fees, further it is unlikely the debtor can propose a feasible plan, the debtor failed to list all pending bankruptcies by affiliates, it is not represented by a disinterested attorney, and for such other and further relief as the Court deems just and proper.

Dated: February 8, 2010.

/s/Alexandria P. Kenny
Alexandria P. Kenny
Staff Attorney
United States Bankruptcy Administrator
402 W. Trade Street, Suite 200
Charlotte, NC 28202-1669
N.C. Bar #24352
Telephone: (704) 350-7587 Fax: (704) 344-6666
Email: alexandria_a_kenny@ncwba.uscourts.gov

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

IN RE:)	Case No.: 09-11394
)	Chapter 11
SEVEN FALLS GOLF AND)	
RIVER CLUB, LLC)	
)	
)	
TAX ID #: 26-0868131)	
)	
<u>Debtor(s)</u>)	

CERTIFICATE OF SERVICE

The undersigned certifies that the pleading(s) or paper(s) to which this Certificate is affixed was served upon the party(s) to this action listed below by depositing a copy of the same, enclosed in a first-class postpaid, properly addressed wrapper, in a Post Office or official depository under the exclusive care and custody of the United States Postal Service and/or by means of the Electronic Filing System of the Bankruptcy Court on February 8, 2010.

Seven Falls Golf and River Club, LLC
39 Pleasant Grove Church Road
Hendersonville, NC 28739

Gene B. Johnson
Johnson Law Firm, P.A.
PO Box 1288
Arden, NC 28704

/s/Alexandria P. Kenny
Alexandria P. Kenny
Staff Attorney
United States Bankruptcy Administrator
402 W. Trade Street, Suite 200
Charlotte, NC 28202-1669
N.C. Bar #24352
Telephone: (704) 350-7587 Fax: (704) 344-6666
Email: alexandria_a_kenny@ncwba.uscourts.gov